

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Petitioner,

v.

WILLIAM F. HORNE,

Respondent.

3:07-CV-398-BES-RAM

ORDER

Before the Court is the United States' Petition to Enforce IRS Summonses (Doc #1) filed September 10, 2007. This action was referred to U.S. Magistrate Judge McQuaid pursuant to 28 U.S.C. § 636(b)(1)(B) and LR IB 1-4. The Magistrate Judge submitted his Report and Recommendation (#15) on February 22, 2008, recommending that this Court grant the United States' Petition to Enforce IRS Summonses (Doc #1). Respondent William F. Horne filed his Objection to the Recommendation (#16) on March 10, 2008. The United States filed its Response (Doc #17) on March 17, 2008 and Respondent filed his Reply to United States' Response to Objection to Magistrate Judge's Report and Recommendation (Doc #18) on March 24, 2008.

I. ANALYSIS

A. Review of Magistrate Judge's Order

Any party may object to a magistrate judge's case dispositive proposed order, findings, or recommendations. 28 U.S.C. § 636(b)(1)(B); Fed.R.Civ.P. 72(b); LR 74.2. The district court must make a *de novo* determination of those portions of the magistrate judge's report

1 to which objection is made and may accept, reject, or modify, in whole or in part, the findings
2 or recommendations made by the magistrate judge. Id. De novo review means the court must
3 consider the matter anew, the same as if it had not been heard before and as if no decision
4 previously had been rendered. Ness v. Commissioner, 954 F.2d 1495, 1497 (9th Cir. 1992).
5 Thus, although the district court need not hold a de novo hearing, the court's obligation is to
6 arrive at its own independent conclusion about those portions of the magistrate judge's
7 findings or recommendation to which objections are made. United States v. Remsing, 874
8 F.2d 614, 617 (9th Cir. 1989).

9 The IRS is conducting an investigation pursuant to 26 U.S.C. § 6700 to determine if
10 Respondent and/or Carson Mail Depot promoted corporations sole or other abusive tax
11 schemes. In its summonses to the Respondent, the IRS sought materials relevant to its inquiry
12 and followed the administrative procedures. IRS Agent Gwen I. Ballard properly served two
13 summonses both directed toward Horne as an individual and as President of Carson Mail
14 Depot. On September 10, 2007 the United States petitioned the Court for an order enforcing
15 the Internal Revenue Service (IRS) administrative summonses served on the respondent
16 William F. Horne individually and as President of Carson Mail Depot (Doc #1). Mr. Horne filed
17 his opposition to United States' Petition to Enforce IRS Summons (Doc #8), on the grounds
18 that the purpose of the investigation was not legitimate, Agent Ballard's declarations were false
19 and misleading, the documents sought were constructively or actually in the possession of the
20 IRS and that the summonses are overbroad.

21 The requirements set forth in United States v. Powell, 379 U.S. 48 (1964), to obtain
22 enforcement of a summons the IRS must establish (1) the summons was issued for a
23 legitimate purpose, (2) seeks information relevant to that purposes, (3) seeks information that
24 is not already within the Internal Revenue Service's possession, and (4) satisfies all
25 administrative steps required by the United States Code.

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1 The Court agrees with the Magistrate Judge's decision that the Petitioner has complied
2 with the Powell requirements and accordingly, the United States' Petition to Enforce IRS
3 Summonses (Doc #1) should be granted.

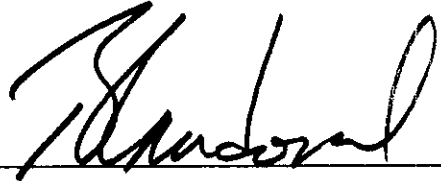
4 **III. CONCLUSION**

5 Based on the foregoing,

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7 IT IS HEREBY ORDERED that Respondent's Objection to Report and
8 Recommendation of U.S. Magistrate Judge (#16) is DENIED and the Report and
9 Recommendation (#15) entered by the Magistrate Judge on February 22, 2008 is ADOPTED.

10 IT IS SO ORDERED.

11 DATED: This 11th day of April, 2008.

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17 UNITED STATES DISTRICT JUDGE
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